



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 11, 1997

Ms. Joanne Wright  
Associate General Counsel  
Texas Department of Transportation  
125 E. 11th Street  
Austin, Texas 78701-2483

OR97-0320

Dear Ms. Wright:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 104392.

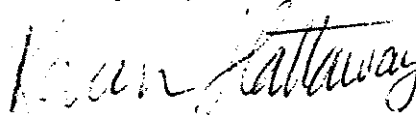
The Texas Department of Transportation (the "department") received a request for copies of each of the winning firms' proposals for the Subsurface Utility Engineering Project and a description of Geotrack's score. We assume that you have provided the requestor with a description of Geotrack's score since you have not objected to the release of this material. You have submitted the requested proposals to this office for review, and you claim that they are excepted from disclosure pursuant to section 552.104 of the Government Code.

Section 552.104 excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." Section 552.104 is generally invoked to protect information relating to competitive bidding situations involving specific commercial or contractual matters. Open Records Decision No. 463 (1987). Governmental bodies may withhold bid information while governmental officials are in the process of evaluating the proposals and asking competitors to clarify their bids. Open Records Decision No. 170 (1977). Section 552.104 does not, however, except bids or proposals from disclosure once the bidding is over and the contract is in effect. Open Records Decision Nos. 306 (1982); 184 (1978).

The companies whose proposals are at issue here "have tentatively been chosen to receive the contracts," but you state that "negotiations as to price are still ongoing." You note that "[i]f negotiations with any one of the four companies were to end in failure, that contract would be put out for proposals again." Under these circumstances, we conclude that the department may withhold the proposals from disclosure under section 552.104 until such time as final contracts are in place.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 104392

Enclosures: Submitted documents

cc: Mr. Jonathan L. Tan  
President  
Geotrack, Inc.  
1170 Route 41  
Gurnee, Illinois 60031  
(w/o enclosures)